

OFFICIAL COPY

Fresno, California

August 31, 2004

The City Council met in regular session at the hour of 8:04 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember (arrived shortly into the meeting)
	Mike Dages	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President
Absent:	Jerry Duncan	Councilmember (out of town)

Dan Hobbs, City Manager
Jon Ruiz, Assistant City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Deputy City Attorney Avila gave the invocation.

A Moment of Silence was observed in commemoration of the 3rd anniversary of September 11th.

President Castillo led The Pledge of Allegiance.

(SURPRISE/ADD-ON PRESENTATION) RESOLUTION OF COMMENDATION TO DEPUTY CITY ATTORNEY JESSE AVILA

Read and presented.

INTRODUCTION OF INTERIM ZOO DIRECTOR STEPHEN WYLIE

Assistant City Manager Souza introduced Mr. Wylie, welcomed him, and spoke to his experience in the zoo industry. Mr. Wylie stated he was ready to face the challenges and he hoped to bring in best practices of the industry and get the zoo ready for accreditation.

APPROVE MINUTES OF AUGUST 24, 2004:

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the minutes of August 24, 2004, hereby approved, as amended by President Castillo, on Page 144-59, Item "B", Paragraph 6 (motion), changing the language to read: "On motion of ...etc., the city manager directed to recommend management and/or audit firms to identify...", by the following vote:

Ayes	:	Boyajian, Perea, Sterling, Castillo
Noes	:	Dages
Absent	:	Calhoun, Duncan

COUNCIL MEMBER REPORTS AND COMMENTS:

REITERATION OF PAST REQUEST TO MAKE ANNUAL PARK PASSES AVAILABLE FOR PURCHASE AT BOOTHS AT PARK ENTRANCES - PRESIDENT CASTILLO

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8/31/04

Request made with Assistant City Manager Souza responding and stating there were issues involved, staff was working on the pros and cons, and advised a tray memo on the issue was submitted to council over one week ago and he would advise parks staff of the concerns.

TOWER TROLLEY AND COMMENDATION TO BRUCE RUDD AND FAX - COUNCILMEMBER BOYAJIAN

Commendation made.

HUNTINGTON BOULEVARD LANDSCAPING ISSUE - COUNCILMEMBER DAGES

Councilmember Dages stated the boulevard was a tragedy and explained and again reiterated his frustration with the situation, with Interim Public Works Director Kirm and City Manager Hobbs responding and clarifying issues relative to the transition. After Councilmember Sterling's following commendations, Councilmember Boyajian and Assistant Public Works Director for Streets Dilley further explained issues relative to the transitioning and function.

COMMENDATION TO: (1) THE CITY OF FRESNO, DOWNTOWN AND THE TOWER DISTRICT ON THE TROLLEY PARTNERSHIP; (2) PLANNED PARENTHOOD ON THE OPENING OF THEIR MIRAMONTE CENTER; AND (3) SCOTT'S CLEANERS ON THEIR 55TH ANNIVERSARY CELEBRATION - COUNCILMEMBER STERLING

Commendations made.

APPROVE AGENDA:

(2:45 P.M.) APPEAL OF AN ADMINISTRATIVE ABATEMENT DECISION BY WESLEY AND VANHDAO FLOWERS FOR PROPERTY LOCATED AT 2475 S. LILY AVENUE

Tentatively continued to September 21st at the request of the applicant.

(8:20 A.M.) DIRECT CITY ATTORNEY'S OFFICE TO PREPARE THE NECESSARY LEGISLATIVE ACTION DOCUMENTS TO IMPLEMENT THE "NO NEIGHBORHOOD LEFT BEHIND" PUBLIC WORKS CONSTRUCTION WITH CITY PERSONNEL AND EQUIPMENT AND RETURN ON SEPTEMBER 21, 2004, WITH SAID DOCUMENTS - PRESIDENT CASTILLO

1. DIRECT THE CITY ATTORNEY'S OFFICE TO DRAFT LEGISLATIVE ACTION ADDRESSING THE EXTENT TO WHICH COUNCIL DIRECTION MAY BE DEEMED BINDING ON CITY STAFF

City Clerk Klisch clarified President Castillo's material was included in the material and should have been placed first but was inadvertently placed behind staff's report.

FUTURE WORKSHOP - URBAN FOREST

Councilmember Dages noted the workshop keeps getting put off, questioned why, and requested a specific date be set. Councilmember Calhoun arrived at 8:35 a.m. Brief discussion ensued and a date was to be determined by staff.

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the agenda hereby approved, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes :	None
Absent :	Duncan

ADOPT CONSENT CALENDAR:

Barbara Hunt, 2475 S. Walnut, spoke to various issues relative to Items 1-E, 1-F, 1-G, 1-I and 1-J.

Gloria Torrez stated consent items were not routine and needed to be discussed/voted upon separately; spoke in opposition to 1-A being under FAX; relative to 1-J questioned if the trust fund was for the homeless; and relative to 1-K stated she hoped there was no misuse and questioned where the funds were coming from.

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(1-A) RESOLUTION NO. 2004-298 - SUPPORTING THE CALIFORNIA HIGH SPEED RAIL PROJECT

(1-B) AWARD A ONE-YEAR REQUIREMENTS CONTRACT, WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS, FOR COMPACT PICKUP TRUCKS TO FREEDOM FORD TRUCK CENTER, INC., OF FRESNO IN THE AMOUNT OF \$135,757.54

(1-C) APPROVE A SIX MONTH EXTENSION OF THE TEMPORARY USE PERMIT UNDER WHICH MS. IDA J. ROBINSON, AN INDIVIDUAL, OPENED THE "RUNWAY CAFÉ" IN THE PASSENGER TERMINAL BUILDING AT FRESNO CHANDLER EXECUTIVE AIRPORT, AND AUTHORIZE THE DIRECTOR OF AVIATION TO SIGN THE LEASE ON BEHALF OF THE CITY

(1-D) APPROVE THE PROPOSED RENTAL CAR CONCESSION AGREEMENTS TO THE TOP SIX PROPOSERS TO THE REQUEST FOR PROPOSALS FOR RENTAL CAR OPERATIONS AT FRESNO YOSEMITE INTERNATIONAL AIRPORT (FYI), RELEASED IN APRIL, 2004, AND AUTHORIZE THE DIRECTOR OF AVIATION TO EXECUTE THE SAME ON BEHALF OF THE CITY

(1-E) APPROVE RENEWAL OF AGREEMENT WITH THE FRESNO COUNTY INTERAGENCY COUNCIL FOR CHILDREN AND FAMILIES (ICCF) FOR FISCAL YEAR 2005 AND APPROVE \$13,399.75 AS THE CITY'S SHARE AS A SPONSORING MEMBER

(1-F) RESOLUTION NO. 2004-299 - AUTHORIZING APPLICATION FOR AND ACCEPTANCE OF AN ALLOCATION OF FUNDS FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION TO FUND A PORTION OF THE MATCH FOR FEDERAL GRANTS AWARDED TO THE FRESNO CHANDLER EXECUTIVE AIRPORT UNDER AIRPORT IMPROVEMENT PROGRAM (AIP) NOS. 3-06-0088-08 AND 3-06-0088-09 FOR FISCAL YEARS 2003 AND 2004, AND AUTHORIZE EXECUTION OF DOCUMENTS

(1-G) RESOLUTION NO. 2004-300 - AUTHORIZING THE PUBLIC WORKS DIRECTOR TO NAME SPECIFIC MANUFACTURERS AND MODELS WITHOUT SUBSTITUTION FOR CERTAIN TYPES OF EQUIPMENT TO BE INSTALLED IN THE REGIONAL WASTEWATER RECLAMATION FACILITY (RWRF) ORGANIC UPGRADE PROJECT

(1-H) AUTHORIZE THE PUBLIC WORKS DIRECTOR TO DISTRIBUTE "SALES PACKAGES" TO INVESTORS, DEVELOPERS AND BROKERS FOR THE POTENTIAL SALE OF 17.3+ ACRES OF CITY-OWNED LAND AT THE SOUTHWEST CORNER OF HERNDON AND BRAWLEY AVENUES

(1-J) RESOLUTION NO. 2004-301 - AUTHORIZING SUBMITTAL OF A \$1 MILLION CalHOME PROGRAM MORTGAGE ASSISTANCE GRANT APPLICATION TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AND AUTHORIZE THE CITY MANAGER TO SIGN ALL NECESSARY DOCUMENTS AND AGREEMENTS TO IMPLEMENT THE GRANT

(1-K) BILL NO. B-82 - (FOR INTRODUCTION) ESTABLISHING CRITERIA FOR REIMBURSEMENT OF EXPENSES FOR THE MAYOR AND COUNCIL MEMBERS

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes	:	None
Absent	:	Duncan

- - - -

SPECIAL PRESENTATION TO CITY COUNCIL EMPLOYEE PETE MUNIZ, ARMY NATIONAL GUARD MEMBER, ON HIS CALL TO DUTY IN THE MIDDLE EAST

Presented.

PRESENTATION OF DISTRICT 4 STUDENT RECOGNITION CERTIFICATES - PRESIDENT CASTILLO

Presented.

144-63

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(8:20 A.M.) DIRECT CITY ATTORNEY'S OFFICE TO PREPARE THE NECESSARY LEGISLATIVE ACTION DOCUMENTS TO IMPLEMENT THE "NO NEIGHBORHOOD LEFT BEHIND" PUBLIC WORKS CONSTRUCTION WITH CITY PERSONNEL AND EQUIPMENT AND RETURN ON SEPTEMBER 21, 2004, WITH SAID DOCUMENTS - PRESIDENT CASTILLO

1. DIRECT THE CITY ATTORNEY'S OFFICE TO DRAFT LEGISLATIVE ACTION ADDRESSING THE EXTENT TO WHICH COUNCIL DIRECTION MAY BE DEEMED BINDING ON CITY STAFF

President Castillo reviewed the background of the issue at length, expressed his concern stating the administration did not ask Council to reconsider the issue even though Council voted 5-2 to have the work done in-house due to information presented by staff, **(2 - 0)** explained this motion was crafted as a legislative action which could not be changed, and stated this was about process to make government function and made a motion to direct staff as outlined above, which motion was seconded and acted upon after extensive discussion.

Assistant City Manager Ruiz spoke to the issue and how it got to this point; confirmed staff's original recommendation was to do the work in-house but clarified information came forth and the administration/staff felt it was the city's obligation to look at approaching the work in a new way and came up with the Pave Off idea; emphasized it was staff's responsibility to look for new, innovative and flexible ways to continue to provide the best for the community, stated the Pave Off was an opportunity to be fair and flexible, and explained how the Pave Off would work; and stated the Pave Off would not stall the project, benefits would be maximized, and city policy for staff was clear relative to implementing the program and utilizing the resources in the best way.

Speaking in support of, or in opposition to, the Pave Off proposal and explaining reasons therefore were: John Hutson, Financial Secretary/Treasurer, Building & Construction Trades, 3688 N. Delno, support; Todd Hill, Granite Construction Co., 2716 S. Granite, support; Dr. Adrien Moore, Vice President of the Reason Foundation, Tehachapi, CA, support; Barbara Hunt, 2475 S. Walnut, opposed; Chris Hickey, Construction Manager for AG Construction, support; Will Lyles, Vice President of Construction, Lyles Diversified, support; David Jones, Regional Manager, Associated General Contractors of California, support; Marina Magdalena, Business Representative, International Union of Operating Engineers, Local 39, opposed; Steve Newvine, Chief Executive Officer, Chamber of Commerce, support; and Curtis Morgan, W. Hulbert Avenue, support.

Deputy Mayor Montero stated there was never any "back room deal" as he had heard on several occasions; stated this was a question of what Council approved and what Council accepted and advised after scrutiny of staff's recommendation it became clear questions needed to be answered relative to the appropriation and what was best for the community as a whole; emphasized the decision to go forth with the Pave Off method was to simply provide value to the community; advised private sector contractors came to the table and offered documented, compelling information that the administration could not ignore as they felt it would be wrong and not in the best interest of the community; and clarified this was not about "who" but was about "what" and "how" and concluded stating the administration had tremendous respect for city crews and the private sector and felt this would be a golden opportunity to bring the two institutions together to create and do something better.

Continued speakers in support of the Pave Off were: Peter Weber, Co-Chair, Regional Jobs Initiative; Clayton Smith, Regional Manager, Associated Builders and Contractors; and Curtis Thornton, self-employed construction consultant.

Upon call, no one else wished to be heard and President Castillo closed public testimony.

Councilmember Calhoun stated he opposed this the first time because he felt there had been inadequate input from the private sector; stated the process did not work well, this was a lesson learned, and staff and the mayor were now being punished and that should not be happening; and encouraged Council to vote the motion down and give the private sector a chance to be a part of the process. Councilmember Sterling stated this was a very unfortunate and embarrassing situation to be in; spoke to the issue at length expressing her concern and pointed out **(3 - 0)** eleven neighborhoods would not be completed if the Pave Off approach is undertaken and stressed a 5-2 vote should stand as policy; and expressed strong concern with the process and added the mayor never talked to her about this and she might have considered it if he had. Councilmember Boyajian stressed this debate should have taken place months ago and not after Council took a vote; spoke to the issue at length including neighborhood needs, coordination of services, the need for a strong city council, credibility, process and how this Pave Off came about the wrong way; and questioned if there was room to change Council's decision on who they wanted to do the work, with City Attorney Montoy stating there was room for change and explained.

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Ms. Montoy continued and clarified issues relative to Council's first action back in April, Council's action on a 5-2 vote rejecting Councilmember Duncan's proposal for a competitive process, and representations made to Council over the past few months and how the matter got to this point; spoke to the issue and stated there was going to have to be a lot of give and take and compromise between the mayor and council and clarified in the end Council had the authority to approve this project without a competitive process; relative to the motion on the floor recommended the first part be made a part of the bond financing documents with the date changed to September 28th and explained and responded to questions of President Castillo; relative to the second part of the motion stated it was very general, she did not feel her office could come back with something that specific by the 21st, urged Council to read some of the legal opinions written; and responded to additional questions of President Castillo relative to finality of Council's votes, mayor veto authority, if legislative action was necessary to stop the Pave Off, and if the entire NNLB program could be rescinded.

Extensive discussion continued. Councilmember Dages expressed his frustration and questioned where everyone was when Council took their vote; noted no one had a big concern or cared about the best interests of the city until the businesses found out they were not getting a piece of the \$45 million pie and that bothered him more than anything; expressed concern with city employees continually being challenged and stated this coming up after the fact was totally beyond him; noted the city was going to be challenged again, public works staff was going to have to come up to the plate and bid, and Council was going to find out which way was the least expensive and the best for the public and get this over with once and for all; and along with President Castillo presented questions relative to whether the project had stopped, what the motion was saying and if it was not directing the Pave Off, if the Pave Off was still up in the air, if projects designated for this fiscal year will be done on time, what projects the Pave Off was being asked on, if public works staff would not be allowed to bid on the bundle of projects the private sector was looking to do and why they will not be able to bid on them, and need for the city and private sector to bid on the same neighborhoods to compare apples to apples, with Mr. Ruiz and Ms. Montoy responding. Councilmember Dages stated he could not support President Castillo's motion but would support the city being challenged again and added both sides needed to go sharpen their pencils.

Acting President Perea stated the program name should be changed to "No Special Interests Left Behind"; expressed his frustration and stressed Council voted the way they did based on information provided by staff; stated this was just like the SMG issue in that staff keeps coming back until they get the votes they need and end result they are looking for; expressed his support for the motion noting the program was intended to help 71 poorest neighborhoods and he would keep fighting for them; and stated he would not waiver and flip-flop because of some powerful interests in this community.

City Manager Hobbs stated some unfortunate rhetoric had been used; noted everyone was in support of this great investment program to improve the poorer parts of the community but the debate was how to best execute the program; clarified he had not changed his view that city crews are faster, better and cheaper but there were significant portions of this community that were not convinced and have continued to challenge this proposition; emphasized this was about going head to head for one year on some projects and have an evaluation on the end results and see where the city goes from there; and clarified the final decision point on any contracting out would be Councils and it was staff's job to continually look for ways to best execute and that's what was occurring this date. Upon question of Councilmember Sterling, Ms. Montoy stated Council could rescind the NNLB program down the road if Council feels the program is not working out.

Controller/Finance Director Quinto clarified issues relative to the bond financing and timing, the bond counsel caring about whether the public or private sector does the job, **(4 - 0)** need for staff to know who will do the job before issuing the official statement, and the possibility of that the bonds may not be ready by the 28th if clear direction is not given to staff.

Ms. Quinto, Mr. Hobbs, Assistant Public Works/Streets Director Dilley and Mr. Ruiz responded to questions, comments and concerns of President Castillo at length relative to the memo from the controller to the city manager on the streets study stating the city did the work more efficiently than other bids received and if that needed to be changed, if that memo was proof enough to the city manager, if the memo was still valid, if any of the \$45 million worth of the work was currently being done by the private sector and if staff was aware \$275 million of work was being done by the private sector, if staff has been asked to slow down on the project, the equipment that has been ordered and part of the bond paying-off that equipment, and why Local 39 was not invited to the meeting held with the private sector and mayor. President Castillo noted words like fairness and competition have been thrown around but one thing that has not been focused on enough was the administration wanting to separate the neighborhoods but not let the public sector compete against the private sector on a specific neighborhood, stressed this was about a 5-2 vote and the administration choosing not to implement it because

of Charter interpretation, added this was not about punishment but about council disciplining the administration's undesired behavior and spoke further to the administration continuously circumventing council's actions, and stated he disagreed with the city attorney's interpretation on the spirit of the Charter and advised he requested a former city attorney look at the spirit of the Charter and give an opinion pro bono as he strongly felt this process was not working based on the way the Charter was being interpreted.

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On motion of President Castillo, seconded by Acting President Perea, duly carried, RESOLVED, the city attorney's office directed to prepare the necessary legislative action documents to implement the "No Neighborhood Left Behind" public works construction with city personnel and equipment and return on September 28, 2004, with said documents, and the city attorney's office further directed to draft legislative action addressing the extent to which council direction may be deemed binding on city staff, by the following vote:

Ayes	:	Boyajian, Perea, Sterling, Castillo
Noes	:	Calhoun, Dages
Absent	:	Duncan

(9:00 A.M.) PUBLIC COMMENT PERIOD:

(A) SCHEDULED PUBLIC COMMENT - APPEARANCE BY RICHARD SPENCER TO APPEAL THE PUBLIC WORKS DEPARTMENT'S DECISION TO NO ALLOW FINAL OCCUPANCY CLEARANCE ON PROPERTY LOCATED AT 211 W. HULBERT COURT

Appearance made with Interim Public Works Director Kirn advising an occupancy permit was issued and the proper procedure was for staff to meet with Mr. Stewart and he could appeal if no resolution is reached. There was no further discussion.

(B) UNSCHEDULED COMMUNICATION - APPEARANCE BY BARBARA HUNT COMMENDING COUNCIL ON THEIR ACTION JUST TAKEN ON THE 8:20 A.M. ITEM, AND CONCERN WITH ADVICE/INFORMATION GIVEN BY THE CITY ATTORNEY

Appearance made.

(9:10 A.M.) BILL NO. B-83 - (FOR INTRODUCTION) - REPEALING ARTICLE 2 OF CHAPTER 6 AND ADDING ARTICLE 2 TO CHAPTER 6 OF THE FRESNO MUNICIPAL CODE RELATING TO CABLE COMMUNICATION SYSTEMS

Cable Franchise Renewal Working Group Chair Lynch and Consultant Sue Buske gave an overview of the issue and the ordinance as contained in the staff report as submitted including what other cities have done.

Speaking to the issue were: Kristine Walter of Comcast, who expressed concern with some of the provisions of the ordinance as contained in their letter submitted to staff; and Barbara Hunt, 2475 S. Walnut.

Ms. Walter and City Attorney Montoy responded to questions of Councilmember Boyajian relative to how this ordinance would be detrimental to Comcast's interests/what portions were overbearing/overreaching, if Comcast would be unable to do certain things if this ordinance is adopted, and if Comcast would have an opportunity to talk with city staff about their concerns. Acting President Perea recommended introduction of the ordinance be delayed so Comcast can meet with staff. Councilmember Calhoun spoke in opposition to a delay stating the process was moving forward and needed to move forward and clarified Comcast was not asking the city to stop or slow down and Comcast had time as the ordinance was only being introduced and would not be back for adoption for three weeks. Mr. Lynch clarified the city was not jeopardizing the current franchise agreement, advised Comcast has had the ordinance for more than one month, and stated staff has committed to discussing the ordinance line by line with Comcast and added this was not a controversial package. Mr. Lynch and Ms. Walter responded briefly to questions of Councilmembers Dages and Boyajian relative to whether Pacific University was involved in this as requested and if Comcast wanted a continuance and if they felt issues could be resolved.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill

No. B-83 introduced before the Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Sterling, Castillo
 Noes : Perea
 Absent : Duncan

144-66

8/31/04

(10:00 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 73, FINAL TRACT MAP NO. 5137

- 1. RESOLUTION NO. 2004-302** - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
- 2. RESOLUTION NO. 2004-303** - CALLING A SPECIAL MAILED-BALLOT ELECTION
- 3. RESOLUTION NO. 2004-304** - DECLARING ELECTION RESULTS
- 4. BILL NO. B-84 - ORDINANCE NO. 2004-82** - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Castillo announced the time had arrived to consider the issue and opened the hearing. Interim Public Works Director Kirn reviewed the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in opposition.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Mr. Kirn responded briefly to questions of Councilmember Boyajian relative to the time line for modifications and cost of living increases down the road.

On motion of Councilmember Boyajian, seconded by Councilmember Dages, duly carried, **RESOLVED**, the above entitled Resolution Nos. 2004-302, 2004-303 and 2004-304 hereby adopted, and the above entitled Bill No. B-84 adopted as Ordinance No. 2004-82, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
 Noes : None
 Absent : Duncan

(10:05 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 74, FINAL TRACT MAP NO. 5233

- 1. RESOLUTION NO. 2004-305** - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
- 2. RESOLUTION NO. 2004-306** - CALLING A SPECIAL MAILED-BALLOT ELECTION
- 3. RESOLUTION NO. 2004-307** - DECLARING ELECTION RESULTS
- 4. BILL NO. B-85 - ORDINANCE NO. 2004-83** - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Castillo announced the time had arrived to consider the issue and opened the hearing. Interim Public Works Director Kirn reviewed the issue as contained in the staff report as submitted and recommended approval. Councilmember Boyajian and President Castillo briefly left the meeting at 11:15 a.m.

Barbara Hunt, 2475 S. Walnut, spoke in opposition to the issue and presented questions relative to the funds.

Upon call, no one else wished to be heard and Acting President Perea closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the above entitled Resolution Nos. 2004-305, 2004-306 and 2004-307 hereby adopted, and the above entitled Bill No. B-85 adopted as Ordinance No. 2004-83, by the following vote:

Ayes : Calhoun, Dages, Sterling, Perea
 Noes : None
 Absent : Boyajian, Duncan, Castillo

Councilmember Boyajian returned to the meeting at 11:17 a.m.

(10:10 A.M.) CONTINUED HEARING ON REZONING APPLICATION NO. R-04-024, AND ENVIRONMENTAL FINDINGS, FILED BY SOUTHERN BAPTIST PRESBYTERIAN HOMES, PROPERTY LOCATED ON THE SOUTHWEST CORNER OF N. MARTY AND W. SAN JOSE AVENUES NORTH OF W. SHAW IN COUNCIL DISTRICT 2

144-67

8/31/04

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-04-24/C-04-62, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT

2. BILL NO. B-86 - ORDINANCE NO. 2004-84 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-P/UGM/cz TO C-P/UGM/cz

Acting President Perea announced the time had arrived to consider the issue and opened the hearing. President Castillo returned to the meeting at 11:18 a.m.. Planner Brock reviewed the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Calhoun spoke in support of the project and made a motion to approve staff's recommendation.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, **RESOLVED**, the Environmental Finding of Conformity for Environmental Assessment No. R-04-24/C-04-62, that the project conforms to the provisions of the 2025 Fresno General Plan Master Environmental Impact Report hereby approved, and the above entitled Bill No. B-86 rezoning the project site adopted as Ordinance No. 2004-84, with C-P zoning being granted subject to a condition that the property shall be developed for senior citizen housing in accordance with Conditional Use Permit Application No. C-04-062, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
 Noes : None
 Absent : Duncan

(10:15 A.M.) CONTINUED HEARING ON PLAN AMENDMENT NO. A-03-19, REZONE APPLICATION NO. R-03-80, AND ENVIRONMENTAL FINDING, FILED BY LOGAN AND ASSOCIATES, PROPERTY LOCATED AT THE NORTHEAST CORNER OF E ALLUVIAL AND N. CHESTNUT AVENUES IN COUNCIL DISTRICT 6

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-03-19/R-03-80/C-03/262

2. RESOLUTION NO. 2004-308 - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WOODWARD PARK COMMUNITY PLAN

3. BILL NO. B-87 - ORDINANCE NO. 2004-85 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM RR (RURAL RESIDENTIAL-COUNTY) TO R-1/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Gerster reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Applicant Monte Montemagni, who spoke further to the project and requested approval; and Barbara Hunt, 2475 S. Walnut, who spoke to the project and southwest Fresno housing needs.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the environmental finding of a Mitigated Negative Declaration for Environmental Assessment No. A-03-19/R-03-80/C-03-262, dated June 16, 2004, hereby

approved, the above entitled Resolution No. 2004-308 hereby adopted, and the above entitled Bill No. B-87 rezoning the project site adopted as Ordinance No. 2004-85, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
 Noes : None
 Absent : Duncan

(10:30 A.M.) HEARING ON REZONE APPLICATION NO. R-04-43 AND ENVIRONMENTAL FINDINGS, FILED BY STERGEOS DEMETREOS, PROPERTY LOCATED ON THE WEST SIDE OF N. CLOVIS AVENUE BETWEEN E. BELMONT AND E. TULARE (255 N. CLOVIS) IN DISTRICT 5

144-68

8/31/04

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-04-43, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT NO. 10130

2. BILL NO. B-88 - ORDINANCE NO. 04-86 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM AE-5 TO R-2, AS AMENDED ADDING CONDITIONS

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planning Manager Unruh reviewed the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Applicant Stergeos Demetreos who stated he concurred with staff's recommendation and requested approval, and Barbara Hunt, 2475 S. Walnut, who spoke to southwest Fresno housing needs.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Dages advised he spoke with the developer and staff about imposing conditions, stated R-2 zoning could allow apartments if the property is ever sold in the future and noted southeast Fresno already had too many apartments, and made a motion to approve staff's recommendation with the conditions that the project be a planned unit development, and/or if the applicant wants apartments that it be a gated community with tile roofs and garages for each unit.

Mr. Demetreos, City Attorney Montoy and Mr. Unruh responded to questions of Councilmember Boyajian, President Castillo and Councilmember Calhoun relative to what was being planned, if there was any problem with the conditions, and what staff's position was on the conditions.

On motion of Councilmember Dages, seconded by Councilmember Boyajian, duly carried, **RESOLVED**, the environmental finding of Environmental Assessment No. R-04-43, dated July 8, 2004, that the project conforms to the provisions of the 2025 Fresno General Plan Master Environmental Impact Report No. 10130 hereby approved, and the above entitled Bill No. B-88 rezoning the project site adopted as Ordinance No. 2004-86, *as amended*, adding the conditions that the project be a planned unit development and/or if the applicant wants apartments that it be a gated community with tile roofs and garages for each unit, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
 Noes : None
 Absent : Duncan

(11:00 A.M. #1) CLOSED SESSION WITH THE REDEVELOPMENT AGENCY:

(A) PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT - TITLE: APPOINTMENT OF INTERIM EXECUTIVE DIRECTOR

The City Council and Redevelopment Agency met in joint closed session in Room 2125 at the hour of 11:33 a.m. to consider the above issue and adjourned for lunch thereafter.

LUNCH RECESS - 12:05 P.M. - 2:02 P.M.

(2:00 P.M. #1) CONTESTED CONSENT CALENDAR ITEM(S):

(1-I) RESOLUTION - 15th AMENDMENT TO AAR 2004-209 AUTHORIZING A LOAN OF \$170,000 FROM UGM RR CROSSING/AT-GRADE ZONE A/D TO UGM PARK ZONE 4 TO FINANCE THE PURCHASE OF A PARK SITE AT THE NORTHEAST CORNER OF W. GETTYSBURG AND N. VISTA AVENUES (DISCUSSED AGAIN LATER)

President Castillo noted the last time this item was pulled he asked staff to include a map when the item came back showing the park zone areas and it was not included, and stated he wanted to know where the monies were coming from and how else they could be used since they were being taken out of at grade railroad crossing zones, with Senior Real Estate Agent Hansen responding. President Castillo stated he still did not feel he had enough information to make a decision, noted staff was having difficulty with this as funds were being taken out of two different council districts, and reiterated he wanted to know which areas the monies were coming from.

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Councilmember Boyajian stated he thought the money was going to be taken out of his district from a park that had not been built for about eight years and questioned what was happening, with Interim Public Works Director Kirm responding and stating he did not know the specifics. A motion and second was made to table the item so questions could be answered.

On motion of Acting President Perea, seconded by Councilmember Boyajian, duly carried, RESOLVED, the above entitled Item 1-I tabled to the next meeting (three weeks), by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes :	None
Absent :	Duncan

President Castillo reiterated his request to staff to include a map showing where the money is coming from at the next meeting.

*Note - The matter was brought up again after the Redevelopment Agency meeting wherein a motion was made to reconsider the issue but died due to a lack of a second.

(11:00 A.M. #2) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 2:09 p.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF AUGUST 24, 2004

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the Agency minutes of August 24, 2004, approved as submitted.

("A") RECOMMEND APPROVAL OF AN OWNER PARTICIPATION AGREEMENT BETWEEN THE AGENCY AND PYRAMID A-ONE, A CALIFORNIA LIMITED LIABILITY COMPANY (LLC), FOR THE CONSTRUCTION OF A RESIDENTIAL MIXED-USED PROJECT AT 1807 BROADWAY (OLD VAGABOND HOTEL) (AGENCY ACTION)

Upon the request of Chair Boyajian, Housing and Community Development Manager Sigala and Jeff Roberts, on behalf of Pyramid A-One, gave an overview of the issue and a brief status report on the project. President Castillo briefly left the meeting at 2:11 p.m.

Barbara Hunt, 24765 S. Walnut, expressed concern with the funds being used but stated she supported the project.

Councilmember Sterling spoke in support stating the money would be used for low and moderate housing, would eliminate blight and benefit the area and thanked the developer, and made a motion to approve staff's recommendation.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, an owner participation agreement in the amount of \$400,000 to Pyramid A-One, a California limited liability company, to assist in the construction of a residential mixed-use project at 1807 Broadway hereby approved, by the following vote:

Ayes :	Calhoun, Dages, Perea, Sterling, Boyajian
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Noes : None
 Absent : Castillo, Duncan

("B") REQUEST UPDATE AND CONSIDERATION OF STAFF DIRECTION ON EXCLUSIVE NEGOTIATING AGREEMENT BEING NEGOTIATED BY THE AGENCY FOR THE CHINATOWN PROJECT (JOINT ACTION)

Councilmember Sterling, Redevelopment Administrator Murphey, and Tom Richards, 855 "M" Street, representing the developer, gave an oral informational status report on the project and exclusive negotiating agreement (ENA) stating the project was moving forward, the Redevelopment Agency was working with property owners, and substantial progress was being made with the ENA. President Castillo returned to the meeting at 2:18 p.m.

Barbara Hunt, 2475 S. Walnut, spoke to the need for the Agency to pay their tax bills.

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Councilmember Sterling thanked the Agency and the developer, stated she wanted to see the ENA completed and brought back as soon as possible, advised she would be asking for continuous updates so council will always know where the project is at, and advised the developer would use historic preservation options to restore the historic Chinatown area. This was an informational update and there was no further discussion.

("C") APPOINT A PERSONNEL COMMITTEE TO PREPARE A SET OF RECOMMENDATIONS ON THE PROCESS TO BE UTILIZED FOR FILLING THE EXECUTIVE DIRECTOR POSITION AND RETURN ON SEPTEMBER 21, 2004, WITH THE RECOMMENDATIONS - PRESIDENT CASTILLO

President Castillo stated in an effort to ensure continuity after the resignation of the executive director he wanted to begin the process by establishing a committee to develop criteria for the search of the new director and requested he be a member of the committee.

Speaking to the issue were and in support were Barbara Hunt, 2475 S. Walnut, and Hal Tokmakian, 2721 E. Garland.

(6 - 0) Councilmember Calhoun stated this was a good process but he felt it needed to be more specific and proposed a 3-member committee chosen by Chair Boyajian; stated he hoped a national search would be conducted, he wanted to see staff with personnel background help guide the committee, and suggested the city manager select two staff people with personnel background to assist the committee; and made a motion that the RDA Chairman appoint a 3-member committee and the city manager appoint 2 staff members to the ad hoc committee to develop and return with recommendations on how the process for filling the executive director position will go forward. City Attorney Montoy recommended the motion be amended to have the 2 staff members *assist* the 3-member committee, with Councilmember Calhoun agreeing and stating that was his intent. Chair Boyajian stated he hoped RDA staff members would be included as they had the expertise and knowledge on how to run a redevelopment agency. Councilmember Calhoun clarified his motion excluded RDA staff, stated their involvement would be inappropriate and a conflict of interest as this person would be their boss, and added RDA staff might apply for the position.

On motion of Councilmember Calhoun, seconded by President Castillo, duly carried, **RESOLVED**, the RDA Chairman to appoint a 3-member committee and the city manager requested to appoint 2 staff members to assist the committee to develop and return with recommendations on how the process for filling the executive director position will go forward, by the following vote:

Ayes : Calhoun, Castillo, Dages, Perea, Sterling, Boyajian
 Noes : None
 Absent : Duncan

Chair Boyajian requested those interested in serving on the committee contact him.

The joint bodies adjourned their meeting at 2:38 p.m. and the City Council reconvened in regular session.

(1-I) RESOLUTION - 15th AMENDMENT TO AAR 2004-209 AUTHORIZING A LOAN OF \$170,000 FROM UGM RR CROSSING/AT-GRADE ZONE A/D TO UGM PARK ZONE 4 TO FINANCE THE PURCHASE OF A PARK SITE AT THE NORTHEAST CORNER OF W. GETTYSBURG AND N. VISTA AVENUES (CONTINUED FROM EARLIER)

Councilmember Calhoun stated he wanted Council to reconsider the tabling of this item as he wanted to discuss it and also noted the builder/developer had been in the audience waiting for Council's decision, and to make his findings to reconsider noted the item was pulled last week, the city council chose to postpone it again for three more weeks and that was not fair for anyone in the audience who wanted to address it, stated staff did a horrible job of trying to address the matter and there was a degree of timeliness as the developer has been waiting for a while for council's action, and stated tabling the item was an illegal action as public input was not asked for and the public was not allowed to weigh in on the issue.

A motion of Councilmember Calhoun to reconsider the item failed due to the lack of a second. President Castillo stated he agreed with Councilmember Calhoun noting staff did not respond appropriately to his request last week for a map(s).

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(2:00 P.M. #2) APPROVE CONCEPTUAL EATON PLAZA MASTER PLAN, PHASE ONE CONSTRUCTION PROJECT, AND DIRECT STAFF TO AMEND AND REVISE THE CIVIC CENTER PLAN AND RELATED PLAN DOCUMENTS AS NECESSARY

Interim Public Works Director Kirn, David Nelson and Richard Alsina of MPA Design, and Hal Tokmakian, committee member, gave a lengthy overview of the issue, the project and process undertaken, the master plan/design/phases (displaying renderings on the overhead to illustrate), and the history of the issue and the committees' task and efforts.

Speaking in support of the issue were William Donleavy, 2520 W. Stuart; Diane Stansell, 4781 E. Gettysburg; Linda Zachrist, 2014 Tulare Street; Ray McKnight, 147 W. Scott, representing the Downtown Fresno Coalition; and Barbara Hunt, 2475 S. Walnut. Steve Mensel, downtown resident and business owner/RDA project area committee member/Memorial Auditorium Restoration Society board member, expressed concern with the proposed storage building and its cost.

Upon call, no one else wished to be heard and President Castillo closed public testimony.

Councilmember Calhoun stated this was a beautiful design and thanked MPA, acknowledged everyone else involved in the issue, both past and present, and commented further on and in support of the issue and made a motion to approve staff's recommendation. Councilmember Boyajian thanked all the "pioneers who hung in there" for this concept stating this would really bring downtown together, and presented questions relative to the storage room and mentioned by Mr. Mensel **(7 - 0)**, and parking issues including if Mr. Madewell would be in negotiations when the federal government transfers their building to the county, with Mr. Nelson and Transportation Manager Madewell responding. Councilmember Sterling left at 3:24 p.m. and was absent for the remainder of the meeting. President Castillo also commented briefly in support and expressed his thanks to everyone involved.

On motion of Councilmember Calhoun, seconded by Councilmember Boyajian, duly carried, **RESOLVED**, staff directed to: (1) amend the 1966 Civic Center Master Development Plan and other Plans as necessary to incorporate the conceptual Eaton Plaza Master Plan, and (2) proceed with preparation of all Eaton Plaza Phase One construction and bid documents, advertise for bids, and present the most responsive and responsible proposal to Council for approval, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Castillo
Noes : None
Absent : Duncan, Sterling

- (2-A) ACTIONS RELATIVE TO FRESNO MUNICIPAL CODE BUILDING REGULATIONS**
1. RESOLUTION NO. 2004-309 - AFFIRMING THE EXPRESS FINDINGS FOR ADOPTION OF AMENDMENTS AND MODIFICATIONS TO THE CITY OF FRESNO BUILDING CODE
2. BILL NO. B-79 - ORDINANCE NO. 2004-87 - AMENDING THE 2001 CALIFORNIA BUILDING STANDARDS CODE

Planning & Development Director Yovino gave an overview of the issue as contained in the staff report as submitted and recommended approval.

On motion of Councilmember Boyajian, seconded by Councilmember Dages, duly carried, **RESOLVED**, the above entitled

Resolution No. 2004-309 hereby adopted, and the above entitled Bill No. B-79 adopted as Ordinance No. 2004-87, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Castillo
 Noes : None
 Absent : Duncan, Sterling

(4-A) RESOLUTION NO. 2004-310 - PROCLAIMING THE CITY COUNCIL'S CONCERN ABOUT THE DETRIMENTAL IMPACTS TO THE SAN JOAQUIN RIVER PARKWAY THAT MAY RESULT IF THE STATE IMPLEMENTS THE CALIFORNIA PERFORMANCE REVIEW COMMISSION'S RECOMMENDATIONS REGARDING THE RESTRUCTURE OF FUNDING AND GOVERNANCE FOR CERTAIN LAND CONSERVANCIES

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Councilmember Calhoun noted this was covered in more detail last week and gave an overview of the issue including the funding and negative impacts if the restructuring recommendation is implemented, and made a motion to adopt the resolution stating he wanted the city to be on record stating it wanted what currently existed to stay in place.

Barbara Hunt, 2475 S. Walnut, spoke in opposition.

Councilmember Dages stated he would be unable to support the resolution as there was no back-up material other than the resolution, there were a lot of assumptions in the "whereases", and the resolution was inappropriate. The motion was seconded by President Castillo. Councilmember Calhoun clarified all backup material was provided to Council last week and also pointed out he alerted Council at that time that he would be bringing forth something for action. Upon question of Councilmember Boyajian, Councilmember Calhoun explained what the impetus was for this requested action.

On motion of Councilmember Calhoun, seconded by President Castillo, duly carried, **RESOLVED**, the above entitled Resolution No. 2004-310 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Perea, Castillo
 Noes : Dages
 Absent : Duncan, Sterling

(3-A) CLOSED SESSION:

(A) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION:

1. CITY OF FRESNO V. PINEDALE COUNTY WATER DISTRICT
2. CITY OF FRESNO V. PINEDALE PUBLIC UTILITY DISTRICT

Removed from the agenda.

(B) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:

1. IN THE MATTER OF THE PETITION OF NORTHERN CALIFORNIA WATER ASSOCIATION, CENTRAL VALLEY PROJECT WATER ASSOCIATION, AND ALL PETITIONERS LISTED IN EXHIBIT "A" FOR RECONSIDERATION OF WATER RIGHTS FEES
2. NATIVIDAD ALBA V. CITY OF FRESNO, ET AL.
3. MICHELLE CORTEZ V. CITY OF FRESNO, ET AL.
4. NORTHERN CALIFORNIA WATER ASSOCIATION, ET AL. V. STATE WATER CONTROL BOARD, ET AL.; SACRAMENTO SUPERIOR COURT CASE NO, 03CS01776

The City Council met in closed session in Room 2125 at the hour of 3:42 p.m. to consider the above issues and adjourned thereafter.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 4:00 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

APPROVED on the ____ 21st ____ day of ____ September ____, 2004.

_____/s/_____
Brad Castillo, Council President

ATTEST:_____/s/_____
Yolanda Salazar, Assistant City Clerk